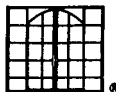


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October 15, 2002

VIA HAND DELIVERY

DEPT. OF TRANSPORTATION
OCT 15 PM 3:47
SCOPELITIS

Administrator
National Highway Traffic Safety Administration
400 7th Street, S.W.
Washington, DC 20590

**Re: Supplement to Petition Of National Association Of Trailer Manufacturers
For Reconsideration Of Final Rule,
Early-Warning Reporting Provisions of TREAD Act
Docket No. NHTSA 2001-8677; Notice 3 -522**

Dear Sir:

Enclosed for filing are an original and three copies of the Supplement to Petition of the National Association of Trailer Manufacturers for Reconsideration of the Final Rule issued in the captioned proceeding.

The National Association of Trailer Manufacturers is aware the date for filing petitions for reconsideration is fixed at August 26, 2002. NATM filed its Petition for Reconsideration on that date. The enclosed Supplement to Petition For Reconsideration is intended to augment the facts and arguments presented in NATM's pending Petition. In the spirit of providing NHTSA with data vital to its determination of what changes, if any, should be made in its final rule implementing the early-warning reporting requirements of the TREAD Act, NATM respectfully requests NHTSA accept the tendered Supplement to Petition and fully consider the information and data enclosed therein when issuing its decision disposing of the pending petitions.

In accordance with the *Federal Register* notice of July 10, 2002, we are also furnishing one copy of the Supplement to Petition for Reconsideration to Docket Management, Room PL-401, 400 7th Street, S.W., Washington, DC 20590.

Sincerely,

Kim D. Mann
General Counsel
National Association of Trailer Manufacturers

cc: NHTSA Docket Management (via hand delivery)
Ms. Pamela O'Toole, Executive Director, NATM
Board of Directors, National Association of Trailer Manufacturers
Mr. Jack Klepinger
Suey Howe, Esquire, Office of Advocacy, SBA

KDM/snp
Enclosures

**BEFORE THE U.S. DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

DOCKET No. NHTSA 2001-8677; NOTICE 3

EARLY-WARNING REPORTING PROVISIONS OF TREAD ACT

**SUPPLEMENT TO PETITION OF NATIONAL ASSOCIATION OF TRAILER
MANUFACTURERS FOR RECONSIDERATION OF FINAL RULE**

BACKGROUND

On August 26, 2002, the National Association of Trailer Manufacturers ("NATM"), on behalf of its trailer manufacturing members, petitioned the National Highway Traffic Safety Administration ("NHTSA") for reconsideration of its final rule, published in the *Federal Register* of July 10, 2002, 67 *Fed. Reg.* 45821 (the "Petition"). This final rule implements the early-warning reporting provisions of the TREAD Act. By this supplemental petition, NATM seeks to augment its petition and the facts and argument presented therein ("Supplemental Petition"). The supplemental information consists of historical and current data depicting the experience of NATM's large-volume trailer manufacturers with trailer-related fatalities, injuries, and vehicle recalls. This information was not available to NATM at the time it submitted its Petition on August 26, 2002.

SUPPLEMENTAL ARGUMENT

I. Filling The Data Gap.

NATM's pending Petition seeks changes to the final rule in several respects. Most importantly, it requests NHTSA to separate out and treat differently for early-warning reporting purposes all trailer manufacturers whose trailers have gross vehicle weight ratings ("GVWRs") of 26,000 lbs. or less. As explained in its Petition, this distinct vehicle category constitutes the small (under 10,000 lbs. GVWR)-to-medium (between 26,000 and 10,000 lbs. GVWR) sized trailer.

This vehicle category possesses two fundamentally unique characteristics that, in the judgment of NATM, warrant separate treatment: more than 58 percent of the companies producing this trailer type are “large manufacturers” under the final rule for purposes of complying with the burdensome, complex new reporting requirements because they each manufacture 500 or more vehicles a year, and yet, with few exceptions, they are all small businesses (500 or fewer employees); and unlike manufacturers of large semi-trailers and other commercial trailers with GVWRs of more than 26,000 lbs., the small-to-medium size trailer manufacturer’s vehicle is rarely involved in a death or serious personal injury, the specific incidents Congress enacted the TREAD Act to address. This important difference -- dramatically fewer serious accidents -- results not only from the small size of this trailer, but also from its much reduced exposure to over-the-road travel and its attendant hazards. Unlike its commercial counterparts, the smaller trailer rarely logs more than 10,000 miles per year on the public highways. As a result, it encounters far fewer situations likely to lead to a death or serious personal injury. See NATM Petition at 7, fn. 4.

NATM represents in its pending Petition that its members’ vehicles are rarely involved in accidents resulting in fatalities or serious personal injuries attributable to manufacturing or design defects. At the time of filing, NATM lacked hard data to corroborate this representation. Subsequently, NATM conducted a survey of its large-volume trailer manufacturers to quantify their actual “accident” experience. A copy of that survey form, disseminated to the membership on August 29, 2002, is appended to this Supplemental Petition as *Supplemental Appendix A*.

NATM’s survey asks each member to provide the total numbers of fatalities and serious injuries occurring during the past ten (10) years in which its trailers have been involved. Next it asks, of these “trailer” accidents or incidents, how many prompted allegations of a manufacturing or design defect or a trailer malfunction causing the fatality or injury. The survey asks how many NHTSA recalls (responding to FMVSS violations or safety-related defects) each member initiated

during the prior five (5) years. Finally, to add perspective to the data, the survey concludes by asking each responding manufacturer how many vehicles it manufactured each year during the past five (5) years. NATM promised the membership to keep all reported survey information strictly confidential and to present it only in aggregate form, a condition designed to encourage greater membership response.

II. Analysis of the NATM “Accident” and “Recall” Data.

Of the 154 surveys sent out to the NATM membership, all addressed to manufacturers previously identifying themselves as large-volume producers (500 or more vehicles per year), NATM headquarters received 91 completed surveys in return. NATM considers the response level extremely high given the short time for responses and the sensitive nature of the information requested. Attached to this Supplemental Petition as *Supplemental Appendix B* is a recap of the survey results.

The highlights of the survey results are as follows:

- The 91 responding trailer manufacturers collectively had a total of ten (10) trailers involved in accidents resulting in a fatality during the most recent ten-year period. Of these ten (10) fatalities, only two (2) were even alleged to be attributable to a trailer manufacturing or design defect, and one of those, upon investigation, proved not to be the fault of the trailer. The remaining eight (8) fatalities were attributable to operator error or other causes unrelated to the design or functioning of the trailer itself.
- There were 41 serious injuries occurring during this ten-year timeframe involving the responding manufacturers’ trailers. “Serious” was defined as any accident requiring emergency-room or hospital care. Of the 41 reported injuries, 32 were alleged to have resulted from a manufacturing defect, design flaw, or malfunction.
- The responding manufacturers collectively participated in a total of 14 NHTSA trailer or vehicle-equipment recalls during the past five (5) years. Several were supplier-

initiated in which the trailer manufacturer participated and notified its dealers and distributors.

- Of the 91 companies completing the survey, 77 approximated the number of trailers they manufactured during the past five (5) years, either in the aggregate or on a per-year basis. Those manufacturers reported producing 1,356,152 vehicles during the five-year survey period, an average of 2,980 vehicles per year per company. (The median is 1,500 vehicles/yr./company.)

NATM believes the reported data, summarized in *Supplemental Appendix B*, fully support its position that trailers with GVWRs of 26,000 lbs. or less are rarely involved in the types of serious incidents the TREAD Act's early-warning reporting requirements are intended to detect. In other words, it is highly improbable this category of trailer manufacturer will ever provide NHTSA useful accident-predicative data. Given the totally unaffordable economic burden the large-volume producers of these trailers will have to endure and the broad reach of the final rule -- approximately 2,500 to 3,000 companies making 26,000 lbs.-and-under GVWRs trailers are classified as large-volume manufacturers (NATM Petition at 4, fn. 2) -- no legitimate offsetting safety related reason exists for saddling this distinct segment of the trailer industry with the large-manufacturer reporting requirements.

III. Merely Increasing the 500-Vehicle/Year Criterion Is No Solution.

For the trailer industry, the arbitrary and unrealistically low threshold NHTSA sets for separating the large- and small-volume producers goes to the heart of NATM's objection to the final rule. Merely shifting that threshold from 500 vehicles per year to some higher number will, however, do little if anything to alleviate the unfair burden upon the 26,000 lbs.-and-under GVWR trailer manufacturer, 96 percent of which are also "small businesses." As demonstrated above, according to the survey of NATM trailer-manufacturing members, each reporting trailer company produces an average of 2,980 trailers per year. Thus, even ratcheting up the "small-manufacturer"


threshold to 3,000 vehicles manufactured per year will alleviate the reporting burden for only slightly more than one half of the large-volume trailer manufacturers producing small-to-medium sized vehicles.

The solution this record justifies, and the one NATM urges NHTSA to adopt in its Petition, is to exempt all manufacturers of 26,000 lbs.-and-under GVWR trailers from the reporting requirements attaching to the large-volume vehicle producer under the final rule and to assign all such trailer manufacturers to the small-volume manufacturing category for reporting purposes. The evidence NATM has presented in its Petition and this Supplemental Petition fully warrants this revision to the final rule.

Respectfully submitted,

**NATIONAL ASSOCIATION OF
TRAILER MANUFACTURERS**

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by: 
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Dated and Filed:
October 15, 2002

General Counsel
National Association of Trailer
Manufacturers

National Association of Trailer Manufacturers
Trailer Incident Survey Report

NATM SURVEY OF TRAILER INCIDENTS/RECALLS

(Sent 8/29/2002 to 154 NATM Members Manufacturing More than 500 trailers per year)

As a crucial follow-up to the two surveys on trailer production and employee size, NATM must ask you to respond to one more survey. Like the other two, this one, about your company's trailer accident and safety recall experience, will greatly assist NATM in its battle to convince NHTSA to move manufacturers of trailers with 26,000 lbs. GVWRs (and less) out from under NHTSA's new burdensome early-warning reporting requirements for "large manufacturers." Your answers to the five questions below will be kept in strictest confidence. No government agency or official or other NATM member will ever see them; only NATM staff.

1. During the past **10 years** (or since you've been in business if less than 10 years), how many of your trailers have been involved in accidents that resulted in:
a. a fatality? _____ and/or b. a serious personal injury? _____
(Serious being defined as requiring emergency room care or hospitalization.)
2. Of the trailer accidents resulting in either a fatality or a serious personal injury counted above, how many were alleged to have been caused by a manufacturing defect or a malfunctioning or failure of the trailer or any of its systems, parts, or components? _____
3. During the past **5 years** (or since you've been in business if less than 5 years), how many safety recalls (for repairs or replacements) has your company initiated after discovering your trailers may have had a safety-related manufacturing or design defect or may have been manufactured in violation of one of NHTSA's Federal Motor Vehicle Safety Standards?

4. To put the recall number in perspective, approximately how many units have you manufactured, either on an annual basis or as a total number, in the past **5 years** (or since you've been in business if less than 5 years)? _____
5. Please describe the circumstances surrounding each of the safety recalls counted above -- i.e., when they occurred (approximately), the nature of the problem sought to be remedied, the number of trailers affected, the remedy actually implemented to correct the defect, whether NHTSA was informed, etc. *(Attach an additional page if necessary.)*

- a. _____

- b. _____

- c. _____

Please respond by September 9, 2002.

October 14, 2002

National Association of Trailer Manufacturers
Trailer Incident Survey Report

	1a. # of Fatalities	1b. Serious Injuries	2. # due to Mfg Defect	3. # Recalls	4. # Units/5yrs	# Units/yr
1.	0	0	0	0		
2.	0	0	0	0	3,500	
3.	0	0	0	0		1,200
4.	0	0	0	0	6,000	
5.	0	0	0	0	2,000	
6.	0	0	0	0		500
7.	0	0	0	1	4,000	
8.	0	0	0	0		
9.	0	0	0	0	3142	
10.	0	0	0	0		
11.	0	0	0	0	10,000	
12.	0	0	0	0	3,500	
13.	0	1	1	0	107,000	
14.	0	0	0	0	6,000	
15.	0	0	0	0		300
16.	1	0	0	0	20,000	
17.	0	0	0	0	4,000	
18.	0	0	0	0		500
19.	0	0	0	0	3,000	
20.	0	1	0	0	33,820	
21.	0	0	0	0	33,000	
22.	0	0	0	0	50,000	
23.	0	18	18	0	140,000	
24.	0	0	0	0	7,500	
25.	0	0	0	0		600
26.	0	0	0	0	5,000	
27.	1	0	0	0		1,600
28.	0	0	0	0		1,250
29.	0	1	1	0	27,500	
30.	0	0	0	0	10,000	
31.	0	0	0	0		550
32.	0	1	0	0	3,589	
33.	0	0	0	0		2,400
34.	0	0	0	4	52,884	
35.	0	0	0	0		600
36.	0	0	0	0	20,000	
37.	1	1	0	0		600
38.	1	0	0	0	9,600	
39.	0	0	0	1		550
40.	0	0	0	0	3,200	
41.	0	0	0	0		700
42.	0	0	0	0		500
43.	0	0	0	0		1,500
44.	0	0	0	0	20,000	
45.	0	0	0	0	20,000	
46.	0	0	0	0	40,000	
47.	1	2	3	0	6,000	
48.	0	0	0	0	25,000	
49.	1	0	0	0	30,000	
50.	0	0	0	2	12,800	
51.	1	0	0	0		
52.	0	1	0	0	7,200	
53.	0	1	1	3	11,527	
54.	0	0	0	0	8,840	

National Association of Trailer Manufacturers
Trailer Incident Survey Report

	1a. # of Fatalities	1b. Serious Injuries	2. # due to Mfg Defect	3. # Recalls	4. # Units/5yrs	# Units/yr
55.	1	0	0	0	50,000	
56.	1	0	0	0	34,000	
57.	0	0	0	0		
58.	0	0	0	0	5,000	
59.	1	0	1	0	6,000	
60.	0	0	0	0	4,000	
61.	0	0	0	0	1,500	
62.	0	5	3	0	139,000	
63.	0	0	0	0		
64.	0	0	0	0		
65.	0	0	0	0	5,800	
66.	0	0	0	0		2,000
67.	0	0	0	0		
68.	0	0	0	1	2,500	
69.	0	0	0	0		
70.	0	0	0	0	20,000	
71.	0	0	0	0	2,000	
72.	0	0	0	0		
73.	0	0	0	0		
74.	0	0	0	0	4,000	
75.	0	0	0	0		1,000
76.	0	0	0	0		
77.	0	0	0	0		
78.	0	0	0	0		1,500
79.	0	0	0	0	30,000	
80.	0	1	1	0		1,500
81.	0	1	1	0		500
82.	0	0	0	0	10,000	
83.	0	0	0	2	10,000	
84.	0	2-5	0	0		1,500
85.	0	0	0	0	50,000	
86.	0	0	0	0		
87.	0	0	0	0		
88.	0	0	0	0	100,000	
89.	0	0	0	0	12,000	
90.	0	2	2	0		1,500
91.	0	0	0	0	6,500	
Totals	10	38-41	32	14	1,241,902	22850